BY AUTHORITY.



IN MEMORIAM.

The following is a copy of resolutions relating to

WHEREAS. In accordance with the Providence of God. a member of this Council the late Hon. J. Moanauli has departed this life, Therefore be it Resolved. That the Council deplore the loss of a highly estcemed member, who was a trustworthy

the Kingdom, and a most respected citizen. Resolved. That the Secretary of the Council be

resolutions. Revolved. That by His Majesty's consent the tion, it is unique among Constitutions. members of the Council wear crape on the left arm as mourning for the deceased for the term of fourteen days from date

insignia thereof :

Prince Kawananakou-The Grand Cross of the Grown of Prince Kellinhount-The Grand Cross of the Crown of

Prince Kalanikuble-The Grand Cross of the Crown of

His Ex. Walter Murray Gibson-Grand Officer of the Crown of Sings. His Ex. John Makini Kapena-Grand Officer of the

Crown of Siams His Ex. Henry A. P. Carter-Grand Officer of the Crown Hon, William L. Green-Grand Officer of the Crown o

Hon. A. F. Judd-Grand Officer of the Crown of

His Ex. Curtis Piehu Isukea-Knight Commander o the Crown of Stanz Hon, J. S. Walker - Knight Commander of

Hon, George W. Crown of Siam. Col. James H. Boyd -- Knight Commander of th Crown of Stans.

Major D. Leico Klaimaka-Knight Companion of the Crown of State Lieut, Robert H. Baker-Knight Companion of the Crown of Slam. Lieut, John T. Baker - Knight Companion of

Notice.

Crown of Siam.

The following resolution was passed by His Majesty, sitting in Privy Council, thi eighteenth day of December, 1883 :

WHEREAS, A number of silver coins, to wit: One bundred and thirty thousand dollars, in silver half dol lars, have been coined and delivered to the Treasury of the Kingdom, which coins are designed to be current silver coins of this Kingdom, and be equal in weight and fineness with the silver com of the United States, and bear the impress of the image and title of His Majesty the King on one side and the Royal Hawalian device, or coat of arms, on the teverse; and, whereas, it is proposed by the Government to colo sliver dollars, half dollars, quarter dollars, and pieces of ten cents, of the same device

Resolved, That such sliver coins shall be, and are hereby, declared by His Majosty, in Privy Council, in accordance with Section 5, Chapter 41, of the Act of the flecialistace of 1976, to be legal tender, and receivable in like manner as silver coin of the United States, of like denomination, and that the Minister of Finance be, and be hereby is, authorized to give notice hereof.

> JNO. M. KAPENA. Minister of Finance.

Treasury Department, December 19, 1883.

MR. A. BARNES has been appointed by the Board of Education School Agent for the District of Waituku, Island of Mani, vice Mr. J. W. Girvin, his commision to date from the lot of January, 1984. W. JAS. SMITH, Secretary.

Department of Education, December 21, 1883.

Fish Stalls at Auction.

ON FRIDAY, December 28th, at 12 M., at the front entrance of Alifolani Hale, will be sold THE CHOICE OF STALLS at the Honolulu Fish Market, for the term CHAS, T. GULICK.

Minister of Interior. Interfor Office, December 20, 1883, It has pleased His Majesty the King to appoint

Iolani Palace, December 14, 1883. Ir has pleased His Majesty the King to appoint the following gentlemen to be members of His

PAUL NEUMANN Attorney-General, vice Walter

Privy Council of State:

Hon. Paul Neumann Hon. William Dowitt Alexander

Hon. Junius Kase.

Marray Gibson, resigned.

Hon. Samuel Parker Hon, Edward Kamakan Lilikalani Iolani Palace, 14th December, 1883.

Tuesday, December 23th (Christmas Day), and Tuesday, January 1st (New Year's Day), will be observed as National Holidays, and all Government offices throughout the Kingdom will be closed. CHAS, T. GULICK, Minister of the Interior. Interior Office, December 12, 1883.

R. ZIEGLER is this day appointed Agent to Take Acknowledgements to Labor Contracts for the District of Kan, Island of Hawaii, vice W. W. Goodale, resigned. CHAS. T. GULICK. Minister of Interior.

Interior Department, December 4, 1883.

No person shall excavate any of the streets or road ways of Honolula for the purpose of attaching or repairfor the water pipes, or for any other purpose, without a written permit from the Road Supervisor of this District. or roads, without first obtaining such permit, shall be prosecuted to the extent of the law.

CHAS. T. GULICK. Minister of the Interior. Interior Office, November, 26, 2883,

Portuguese Immigration.

All Parties desirous of securing the services of Portu guese Contract Laborers, under the auspices of the Board of Immigration, are invited to inform the President of the Board, in writing, at as early a day as convenient, of the number and class of laborers they require.

CHAS. T. GULICK. Minister of the Interior and President Board of Immi-Interior Office, November 22, 1883.

THE PACIFIC

Commercial Advertiser

SATURDAY, DECEMBER 22, 1883

A GREAT deal of nonsense has been talked and written about the remarks we made on amenable to the Judges of the Supreme Court in regard to strictly ministerial acts. What does it matter, for instance, to our

to wish for checks on him and his minis- took a leading part in promoting the earters-checks which under such circum- lier international exhibitions always stances it would probably require a revolu- held that they would become poption to secure. But when, as to a certain ular through their actual utility far extent is the case here, the monarch repre- more than because of the splendid before any tribunal but the Legislature it- established is likely to become a permanent the decease of the late Hon. J. Moanauli, passed at | self becomes far more cogent than in the | one. a meeting of the Privy Council held on the 18th | case of a monarch who has no such supreme | It is not probable that this city will soon

title to his position. trate our ignorance of the constitutional sanguine spirits have indeed already talked history of other countries, as bearing on the of such a thing, and, in an imperfect form, question we raised by references to matters | something of the sort may be secured. But which have no bearing on the case at all. | the better task for Hawaii to undertake at counciller of His Majesty, a patriotic subject of We unhesitatingly reiterate what we said the present time, is that of making her at first, that if the Constitution of this products and her possibilities known abroad instructed to transmit to the bereaved widow and country allows a Judge of the Supreme at these World's Fairs. A fair attempt in this family of the deceased member a copy of these | Court to interfere with the action of a Minister of the Crown by mandamus or injunc- concerned, was made this year, under the

approval of despotic power shows utter ton. The people of this country are again blindness to their true bearing. It is the | invited to join in a great exhibition to be prerogative of the Legislature that we con-His Majesty the King has been graciously tend for. They alone should be judges of pleased to permit the under-mentioned persons | the King's Ministers in respect of their to accept the decorations conferred on them by | Ministerial acts. They represent the people His Majesty the King of Siam, and to wear the from whom, in theory, all power is derived. authority to deal with those to whom the execution of the will of the people has been constitutionally delegated.

> case now pending on appeal in the Supreme Court, and the resolution of the Government to enforce the payment of duties and taxes in American gold coin have made the currency question, and the legal tender question the most prominent sub- glected industries if capital and the right jects of the day. One of the points in con- men to use it were available. Incalculable the most lively discussion is, "what is to be of this sort. done eventually with our Mexican dollars, our five franc pieces, our English, Italian

and Spanish coins, which at present pass current for dollars and quarter dellars? There will ultimately be a loss upon them to their holders. They have been imported to meet the requirements of the country. Their importation has yielded a legitimate profit to those who engaged in it. Since the imposition of a ten per cent duty on silver coin that importation has ceased, and certain classes of silver coins being constantly exported in small quantities, there has been a marked restriction of supply. This has been partly compensated for by a few importations of English sovereigns, but even these are being constantly drained out of the country on account of the value they possess in relation to silver coin in Chinese ports. The arrival of the Hawaiian silver coinage is opportune, and this fact is recognized by all business men. But if we are to have a coinage of our own, and if we are to make the coins of the United States legal tender here permanently, the day mu-t come when all other coins must be deprived of that currency which the law gives to some and custom gives to others.

In speaking upon this subject we are placed by the perverseness of a certain clique which has the control of various newspapers in this town in a position of some embarrassment. Because the tone of this paper is friendly to the King and His Ministers, a constant endeavor is made to represent it as their mouthpiece solely. The other newspapers seem to be unable to find much to talk about except what the Pacific Commercial Advertis-ER says or what its editor does. We are flatttered by this attention but should feel much more complimented if there were more adhesion to facts, and less indulgence in imaginative ideas, on the part of our contemporaries. We have an opinion of der the King's commission, he is a subject our own about the question in hand, and know nothing of the views of the Govern- a highly responsible place but his judical ment or of individual Ministers. It is quite probable that in this case as in several oth. King to whom in theory all appeals for ers when the Premier is supposed by our justice between subject and subject are diall wise contemporaries to have been speaking through our columns, that we hold views quite different to his. To that point we give no consideration whatever. The columns of this journal are intended for the exposition of the views of its editors and will be used for no other purpose so long as the paper is in the hands of its present proprietary.

The various foreign coins which are in circulation here have been accepted by the people as money, at conventional values, because they had virtually no choice of their own in the matter. The more influential of our business men have really been the dictators on this subject. They have, by agreement among themselves, put the legal tender law into abeyance. It is they, almost exclusively, who have imported the coin we have in use. It was they by whose influence the acceptance of certain foreign coins as of certain fixed value in regard to the legal tender was enforced on the community by the Privy Council. But the people at to choose a course in regard to it. It will not a very large one, must fall on the counend. We leave details for future discussion. | the street is altogether unlighted. Our object to-day is to suggest that the desultory talk on this subject which is going on in the town be exchanged for some definite action—that the people who are most interested lead the way, and enable us to give an expression in clear and forcible terms of the popular view on the matter. Such an expression of opinion will be a sugthat it will be respected by both.

Time was when international exhibitions were comparatively rare occurrences, but of late they have become quite common. During 1883 both Amsterdam and Boston have held highly successful exhibitions of foreign and national products and manufactures, and there have been expositions of a more local character to which nevertheless many foreign exhibits have been sent. A more limited range of subjects was the propriety of the King's Ministers being taken for the Great International Fisheries Exhibition of London which is reported to have been, in all respects, one of the most | the Customs' duties, license fees, and assuccessful affairs ever got up. Several exargument, that the King derives his hibitions of different characters are an- mand some substantial return for their executive power from the people? If he nounced for 1884 and 1885, and it is quite money. Much has, we admit, been done derived it from conquest, or by inheri- evident that the custom of holding such for the city by the aid of the appropriation | thousands of coolies will be only too glad

sents the people through an election, the sights they presented. Experience has King and his ministers become the embodi- taught the producers and manufacturers of ment of the majesty and power of the peo- | world and their customers the great useple themselves, and our contention that | fulness of thus bringing the wares of all nathey shall not be amenable to impeachment | tions together, and the custom now so well

see itself the theatre for one of these grand Sundry attempts have been made to illus- commercial and artistic panoramas. Some direction, so far as our chief products are auspices of the Government and the Plant-To say that our contentions involve an ers' Labor and Supply Company, at Bosheld in America. This time the affair takes a national shape and the invitation comes from the President of the United States in pursuance of an Act of Congress. The month of December, 1884, has been selected for this And they alone have sufficient derivative | Exhibition-the centennial of the first shipment of cotton from the States. The Exhibition is to be held in New Orleans, and we trust the opportunity it affords for this country to exhibit will not be slackly taken THE importation of Hawaiian coins, the advantage of. We may not have a great deal to show, but we ought to make the best appearance possible, and above all things, should not omit to make known what is being done here, but also something of what might be done in now nenection with these questions which arouses | good might result from a systematic effort

WE are accused of having, in our leading article of Saturday last, impugued the integrity of the Chief Justice. We deny the charge in toto. Our article of that date upon the so-called Mandamus contained only one expression of opinion and that was to the effect that the full Bench of Judges would be unable to find a flaw in the decision of the Chief Justice. Though we admire both the pluck and the ingenuity of the counsel for the Crown who undertake to argue to the contrary, we are of of dubbing houses with names instead of opinion that there is but one meaning of numbers, often gives rise to difficulty on the word "par" and it was upon the meaning of this word that His Honor's judgment turned. With the exception of this one expression of opinion our article upon this case was altogether a narrative of facts. His Honor said from the Bench that his opinion on the point he was going to decide was formed long ago. We knew of that opinion long ago and knew also that it could not be gaidsaid, and in stating the matter as we did, we adhered to known facts and neither openly nor indirectly said anything derogatory to the Chief Justice.

There is a question involved in this case far more important to this country than the currency or the sale of bonds. It is this: Can any or all the Judges of the Supreme Court call in question the acts of His Majesty in Cabinet Council. If the constitution of this country gives them that power the sooner it is amended the better for everybody, and for nobody more than the Judges themselves. No similar thing was ever heard of before in any country whether its constitution were monarchical, oligarchical or republican. It is a very dangerous power to put into the hands of even such men as judges are usually chosen from. A Judge acts but unof the realm and a public servant. He holds function is but that of a substitute for the rected. To say that he shall sit in judgment upon the actions of him from whom all his authority and jurisdiction is derived

is absolutely absurd. There is a constitutional methods of dealing with the King's Ministers when they do wrong. They are impeachable before the Legislature of the realm. There is no other logical or proper method of dealing with them. If the constitution of this Kingdom allows them to be arraigned before the Supreme Court Judges, it is unique among Constitutions and, we repeat, the sooner it is brought into accord with precedent and common sense the better.

FOOD FOR THOUGHT.

No. VIII. Those who had the misfortune to have to be about in our streets at night during the recent long were made painfully aware of the insufficient manner in which the city large both native and foreign have had no is lighted. On the first night of the bad hand in the matter, and have been helpless | weather, it was just after the full moon, and consequently no lamps were lighted at all. be right and proper that they should be The light of the moon could not penetrate scrupulously protected when these coins | the mass of vapor that hung over the city which they have been taught to use are put and the darkness of the streets was deplorout of circulation. A certain loss, probably able. Even though the lamps were lighted on the subsequent evenings the light was and whoever shall dig or excavate any of the said streets | try when these coins cease to have the right | quite inadequate to enable the pedestrian of currency. This loss ought not to be al- to steer his way among the puddles and lowed to fall upon the individual owners of sheets of water which occupied the footsuch coin, but should be borne by the broad paths. In many streets there are no lamps

It has become an axiom that the good gestion to the Government and a guide to the Legislature, and we cannot doubt, but sensible of this fact, and before the Assemquest for an appropriation for fifty more Legislature, and the Government appears to have thought it useless to press for a reconsideration of the vote which threw it out. The men who may be elected to represent this city in the next Assembly ought to be made to pledge themselves to see that a liberal vote be made for this and some other Municipal purposes of which we propose to speak hereafter. The people of Honolulu pay a very large proportion of sessed taxes, and they have a right to de-

would be some reason for the people with all progressive nations. The men who raised as Road Tax. But when we consider that a third part of the inhabitants of the country are to be found in Honolulu the conviction forces itself upon us that even the most neglected country district (if indeed any district can so call itself, has had, in proportion to its numbers, and to its contributions to the general revenue, more money devoted to it by the Legislature than Honolulu has. The citizens of the capital ought to bestir themselves to see that more justice is done to them in the

No. IX.

The Postoffice of Honolulu, has during the past three years, made a certain amount of progress that is commendable to those who direct and carry out the working of the institution. The increased number of mails, the inter-island money-order system and last of all, the erection of twelve street letter boxes about town and in the suburbs, are all steps in the right direction. Looking ahead, we have the foreign postal money orders as a prominent feature to be scored to the credit of the present Postmaster-General. But there is something lacking and before that something becomes an accomplished fact, the Postoffice cannot be credited with affording that convenience to the public which it ought. What the publie want, and it is almost an absolute necessity, is the delivery of letters at their residences or places of business, as addressed. One of the greatest drawbacks to carrying out this important branch of Postoffice work is the want of knowledge on the part of residents, of the number of their houses. Again, many houses are incorrectly numbered. An instance of this is to be seen on Fort street where the house adjoining No. 134 is numbered 85. How to find a house which is incorrectly numbered would be a puzzler to the letter carrier, unless he knew the name of the iumate. Everyone, of course, knows where his own house is located, and in many instances the house has a name by which it is known to the public, but how often is it the case that a tenant does not know the number of his house, and as a natural consequence cannot impart the information to his correspondents. One number ought to lead to the next, but this is not the case in and around Honolulu. If a man chooses to build a house, say on the Plains, or elsewhere out of town, he invariably christens his suburban residence, but does not number it. It is the duty of the authorities to number it. The affectation the part of the storekeeper who is commissioned to send a parcel thither. How much worse is it in the case of a stranger arriving and asking to be directed to a mutual friend's residence; you are at a loss how to direct him for a want of a number. And as it is, the Postmaster sees difficulties in the way of delivering letters. He might know where "Allendale," "The Bowery," "Leahi," or "Little Britain" is situated, but it does not naturally follow that the native delivery messenger would be possessed of the same valuable information, hence the necessity of a number which all, foreigner and Hawaiian alike, can read and understand. Because you and I know where everybody lives, it does not follow that Mr. Johnson can send his Chinese servant to the house of Mr. Jackson, who occupies "The Lindens," with a note of importance and depend upon its delivery. More likely, after an hour or two's suspense the Celestial

would return with the consoling (?) expression " No savee that man house." But to return to the Postoffice. Would it not pay better to deliver letters twice or thrice a day, than to be compelled to keep a highly salaried clerk standing for about 350 days a year out of the 365 at the Postoffice window sorting A. B. & C. for Dick, Tom or Harry, that don't receive a letter once in six months? It is unnecessary to advert to the crowding and pushing that non-box holders are subjected to on the arrival of a foreign mail. This numbering of houses is one of the much needed municipal subjects to which we shall be obliged to advert in our "Food for Thought" and which shows the present necessity for a proper Municipal Government. .

EDITORIAL NOTES.

By the incoming mail, due on to-day, we may expect to receive definite news with regard to the impending war between China and France. Should war be declared, it will affect more or less the emigration of Chinese coolies. Notwithstanding the anti-foreign feeling that prevails over the whole of China, and which has been abundantly shown of late, the bulk of the lower classes prefer to follow agricultur- far guaranteed our independence. al pursuits to that of warfare. The few who would precipitate themselves into the ranks of the so-called army are those that are simply influenced by their blind hatred of the foreigner, whilst on the other hand, those who would prefer to till the soil, comprise the majority of the coolie classes. It is from the latter class that the Hawaiian labor market has been so abundantly supplied with Chinese. The rustics are indifferent to warfare if not influenced by the literati, but it is a lamentable fact that undue influence is often brought to bear upon them. The Hongkong Daily Press, commenting upon the anticipated outbreak of hostilities says: "Disaffection with the existing Government has been simmering for years, and shoulders of the community at large. More, at all and in others the distance from lamp it is the opinion of close observers of the than one way may be devised to secure this to lamp is so great that the major part of Chinese that it is only waiting an opportunity to boil over. It therefore becomes an interesting question whether in the event lighting of a town is one of the most effi- of the country being drawn into war with a cient helps that the police force can have foreign power, the people would present a both in the prevention and in the detection | united front or would take the opportunity of crime. The present state of darkness to revolt against the Manchus. The quesvisible which characterizes our streets is a | tion, interesting as it is, is of too speculacloak and shelter for all sorts of crime. The | tive a character to be answered; time and circumstances alone can solve it. It is however, worth while to consider what hold the bly met in 1882 Marshal Parke sent in a re- Government has over the people. The Chinese are a patient and long suffering race, lamps for the town. This item of the ap- but the continual "squeezing" to which propriation bill did not find favor with the they are subjected tends to breed ill-feeling towards the Government, apart from any sentiment of patriotism which might prompt them to attempt the overthrow of the Manchu dynasty. The Taiping Rebellion proved how ready the people were to revolt, and whenever a capable leader again appears they will be found equally ready to follow him. The White Lily seet has its ramifications over the length and breadth of the empire and is a perpetual source of anxiety to the Governments of the different provinces as well as to the Imperial Government."

In any case, whether war or rebellion,

nese paradise in the mid Pacific as a place

As suggested by us, the committee having in charge the collection of donations for the lepers, have extended the time during which contributions may be sent in to Saturday, December 29. We learn that a good many articles have already been received by them and it is to be hoped that they will continue to flow in, till like the loaves and fishes among the multitude of old, everyone of the thousand lepers may receive something to show that they have not been forgotten in their lonely life. In such wintry weather as we are now having, many of the gifts sent will be very opportune and help to mitigate the sufferings which these outcasts have to endure, and which ought to enlist the sympathies of every man, woman and child among us. We learn that one letter boxes, the quicker sortment of the firm of mechanics on Fort street sent in, yesterday, to the Committee, a check for \$62 to assist the leper feast.

SUPREME COURT.

Special Term for the hearing of Cases in Banco only.

ON THE BENCH, JUDD, C. J., McCully & Austin, J. J. Friday, December 21, 1883. W. R. Castle et al., respondents, vs. John M.

Kapena. Minister of Finance, appellant. Mr. A. S. Hartwell for respondents. His Ex. Paul Neumann, Attorney-General, and Messrs, E. Preston and W. A. Whiting for the ap-

The petition and answer in this case were pubished in full last week. The petitioners are taxpapers, citizens and residents of Honolulu, and the substance of their prayer is, that John M. Kapena, Minister of Finance, be restrained from issning certain coupon bonds of the Hawaiian Government below "par." They claim that the issuance of said honds for silver coins, which they value at eighty-two per cent, of the value of the United States gold coin, would cause the public good and administration of justice to suffer.

The appellant denies that he is about, or intends to, or will issue said bonds below par, or to receive or accept therefor coins of less value than the equivalent of the lawful money of the Ha-

Mr. Hartwell opened the case for the respondents. He submitted that selling bonds for silver half dollars would be selling them for less than par. He claimed that the bonds could not be re deemed below par, and asked what is the meaning of par? United States gold coin or its equivalent does not mean any gold coin . It must mean some coin. Equivalent must mean an actual value, intrinsic or otherwise. He admitted that value was relative. The legal tender of the country is likely to change its value at any time.

He mentioned that there is no public emergency or public excitement necessitating the issuance of Government securities. Bonds cannot be issued unless for United States gold coin or its equivalent in full. There was another point in the case that was the most important ever presented to this tribunal, and he was bappy to see, on the opposite side, the most eminent and learned counsel in the community. He hoped that all the authorities wold be cited, as this was a question not to be decided hastily. His desire was to meet all the points in the case and to answer them fully. He did not wish to evade any one point. The learned counsel here referred to the act of mandamus under which this petition is brought, and he held that there was no exception in the statute to officers of the Crown. The constitution stated clearly that the King cannot be sued, but his ministers are responsible and can be sued in cases arising under under the law. He contended for the impractability of impeachment where a minister could resign before the meeting of the Legislature. Suppose a minister were to do wrong there is no remedy. Impeachment does not lie for mistakes and negligence which do not amount to crime. Suppose a member of the Cabinet were to mortgage the country, or advance monies without security, would not heavy taxation follow? All private property would be depreciated by an act of that nature. He referred to the British Constitution and English liberty, which conferred on the people the right to petition their Sovereign, and the Queen regards herself bound to submit the petition to her Lord Chancellor. He asked what exemption a man should have from the law because he is a minister of the crown? If an Attorney-General were to do wrong is he to bring a prosecution against himself criminally or civilly. Official rank has nothing to do with the prosecution. There were other principles to be decided. He had heard it intimated that the Supreme Court could have no jurisdiction over any acts done by the King in Cabinet Council.

The action of the Cabinet must be subject to the constitutional provisions. The Judiciary was organized to effect the execution of laws "according to law and justice." and this can only be done by deliberate judicial determination upon cases duly brought before the court. This is no usual power assumed by the court. The books are full of similar cases against Governors and

even the President of the United States. He cited Sec. 824 Civil Code empowering the Supreme Court to pass upon its constitutionality of all laws, also Sec. 831, empowering the issue of write of Mandamus etc., to all persons, corporations and efficials. The integrity and future independence of the Kingdom depend upon the due observance of these statutes and constitutional provisions by the courts, as it was in contemplation of such provisions that the Great Powers had thus

The counsel cited authorities to support the right of a private individual to appear in such cases as the present without prosecuting in the name of the Attorney General. The Supreme Court of the United States and about a dozen of the States have so held and the eminent Judge Cooley, in his treatise on Taxation has stated such to be the prevailing view of the law. As has also Judge Dillon in his work on Municipal Corpora-

Where the effect of the act complained of will be to increase the burdens of the complainant by taxation or otherwise, said right of interference will attach to set aside and annul any unlawful official act, such as handling the credit of the community

The counsel explained the reason why said courts efuse to recognize private individuals as the champions of public rights, to be the danger of thus xposing public officials to vexatious litigation at the caprice of public citizens. But he criticized this | ity of the judiciary to cases involving no clashing principle, and said that the judicial discretion was of jurisdiction with other departments. Such aua sufficient protection to the official. The point as | therity as passing upon the constitutionality of munity is complaining is without force, as the majority may have become callous to official irregularities. Still the right may be extended even to a small minority, to insist upon the proper and honest exercise of his official functions. The Courts do not act upon the principle of a "town meeting" and take a show of hands upon such a question. In the theory contended for by the defense, crops out the absurd and antiquated principle that the Sovereign is the source of all justice, putting his hands deep into the pockets of both parties to such proceedings as this.

Numerous English cases were cited to sustain the position taken by the counsel, among them; Walsh vs. The Secretary of India, to coerce the payment of a pension, and the King vs. The Lords of the Treasury for a Mandamus, the right to which was conceded by the court. In cases where and discretionary authority that is sought to be controlled. Courts have not hesitated to exercise jurisdiction over the Queen's officers; simply however exalted (beneath the crown) does not later.

place him beyond the reach of judicial control.

land, even though contrary to the Royal mandate, ises he argued that the intent of the Legislature

aside by the law, notwithstanding the theory that | uals in borrowing, sometimes obliged to borrow the King is incapable of doing wrong, citing upon unfavorable terms.

Brooms Legal Maxims. The tendency of the Courts as to regard the use of the name of the Sovereign as prosecutor in such | Court below, counsel contended that such could not cases, to be purely nominal, and to recognize the be considered by the Court in the decision of this right as belonging to the individual citizen. Heigh's Extraordinary Legal Remedies.

Mr. Preston, for the Government, began his ad-

cers to the courts, but we do deny that they are portion of the bonds, should be placed in this responsible in a proceeding like this. The complain- country. It is not unreasonable to suppose that ants have mistaken their remedy. According to this act was framed to allow the bankers of their own showing their appropriate remedy is not | Honolulu to make a profit by charging usurious mandamus but injunction, which might lie in this | rates for gold coin with which to buy the bonds if case, but he thought not.

Onoted from Art. XX. of the Constitution pro- purchase. viding for the distinct existence of those departments of the Government. Also from an English case to show that assumpsit does not lie against the Secretary of War for money due as pensions, although that officer may have received the money to pay for it. This is on the principle that the money was the property of the Crown and the duty to pay it over attached only as between the officer and the Crown, to whom alone the executive officers of Government are responsible.

From Tapping on Mandamus 161, he quoted to show that Mandamus would not lie to command the King or Queen, or their officers, as such. Same book, p. 315, Mandamus does not lie against the Lords of the Treasury, the case of the King vs. the Lords of the Treasury, in 4, A. & E. having been much misunderstood, it having in reality aftirmed the doctrine that mandamus will not lie against the officers of the Crown as such. In another case the Court refused a Mandamus to the Lords of the Treasury to enter a certain minute in their books. to effect the payment of a sum of money contributed to a certain superannuation fund, by an Act of

From 2 Am. Rep. 713, Counsel quoted to show that the functions of the three departments of Government could not interfere with each other in the exercise of their respective duties, and that a mandamus would not lie against the Governor of Louisiana to compel him to deliver certain bonds which had been authorized by statute. The functions of each department should be exercised, as far as practicable, independently of interference with each other. Just before John Adams retired from the Presidency of the United States, Margery was appointed and commissioned Justice of Peace of the District of Columbia. The commission was not delivered till after Jefferson's assumption of the Presidency, by whom the delivery of the commission was forbidden, and on application to the Supreme Court a Mandamus to compel its delivery was refused.

The court of Rhode Island has decided to the same effect in a case cited, on the ground that it would provoke a conflict between the judiciary and executive departments. The Supreme Court of Mississippi has held to the same effect, as has also the Supreme Court of Michigan, in an attempt to coerce the Governor by Mandamus, whether the duty sought to be enforced be ministerial or political. In this view of the law the Supreme Court of Minnesota refused a Mandamus to the Governor. Counsel contended that the King and Cabinet were acting in a capacity which could not be reached

by judicial control. That the Mandamus sought in this case should not be granted. It was beyond the jurisdiction of the Court. That no one Judge of the Court, but the Court itself, if any tribunal, has the authority to control the acts of the Cabinet or Privy Council when unconstitutional.

The present application for a Mandate upon the Minister of Finance is inappropriate. Mandamus contemplates a command to do a certain thing, whereas the present writ forbids the doing of Would the present writ affect the successor of

the present Minister, should one be appointed? He submitted, not. That the writ was merely a personal mandate and would bind no one but him to whom directed. During the course of his argument the counsel

quoted, Gedley vs. Lord Palmerston 3 Broadripp & Bingham 275; Mayor etc Bridgewater 6 A. & E. 339; Oliver vs. Warmouth (American) 2 Am. R. 712; Mauran vs. Smith, 5 Am. R. 564; State vs, Warmouth, 13 Am. R. 126; People vs. Governor, 18 Am. R. 89; Rice vs. Austin, 18 Am. R. 130; Tapping on Mandamus, P. 161 title "Crown" ditto Lords of Treasury, P. 315.

It being noon the Court took a recess until 1:30

Upon resuming, Attorney-General Neumann began his address to the court. In opening his remarks, he expressed the purpose to confine his attention to the statute of 1882 authorizing a Government loan and the the construction which that statute should receive. However, since all the force of the argument for plaintiff was directed to the question of jurisdiction, he did not claim for any person, minister or not, exemption from responsibility or liability under the laws. He thought so important a question could not receive too much light. There is no one, from the highest to the lowest resident in the land, who is not subject to the law, as Judge Hartwell claimed, to be the position of the appellant.

Concerning the right to issue Mandamus. Counsel contended it was restricted to cases where officers refused to perform purely ministerial and not executive duties. The Minister of the Treasury belongs to the Executive department, and if the court can coerce the head of a department to do a legal duty for the purpose of redressing a private wrong, it can also coerce the Legislators to adopt its views as regards the admission or qualification of a member of that body-a position without the support of logic.

There is a vast difference between a restraining writ, forbidding wrongful act, and a writ of mandate commanding an act to be done. Should the pel the present incumbent of the edge to do his latter be disregarded the party disobeying would | plain duty. be liable to prosecution, but the Court cannot compel an officer who is equal in power with the Court to perform a duty not expressed in the law.

From the People vs. The Governor in the Michigan Supreme Court, Mr. Neumann quoted to show the existence of the "cheeks and balances" of Government in the independence of the different departments of each other, and to restrict the authorstatutes is thus conceded but the discretion of an

The demand of the petitioners herein is that the Minister shall issue these bonds for United States Mr. Hartwell (interrupting), the demand is that they be issued, if at all, only for gold coin or its

A reference to the return sustained Mr. Nenmann's point. Reference was made to the hurried manner of

the preparation of the Bill and issue of the writ and to the fact that an Injunction was the appropriate writ and probably the one intended. The showing made by the petition was insufficient to warrant the writ. Mr. Neumann read from Bouvier's Law Dictionary the meaning of the word 'par." "Par in exchange" means the payment of a certain sum of money represented by the coinage the Crown has sole authority over the distribution of one country in the coinage of another country. of funds, courts will not interfere by injunction or | with the addition of premium or deduction of dismandamus, but upon the principle that it is a sole | count which may then be warranted by the fluctuation in currency.

The punctuation of the statute as published is different from that of the original draft, upon because they are such officers. One's official rank, which he laid stress and to which he would refer

Concerning the construction of statutes he read He quoted from a letter from Frederick the from an authority that the intendment of the tance from a conqueror, then there gatherings has become extremely popular made by the Assembly, and the money to quit their native land and seek the Chi- Great, adjuring his judges to apply the law of the framers should always govern. From these prem- law.

and quoted at large from Lieber's Civil Liberty to was the relief of a want then existing, by borrow. ing the money for which the bonds in question The acts of even the King, if illegal, will be set were to be issued. Governments are like individ-

In reference to the maladministration of the Government, as spoken of by Mr. Hartwell in the case. Therefore it must be assumed that the intent and desire of the Legislature was primarily to enable the Government to obtain money and that dress to the Court at 11:35 A. M. He said: This is the discretion was left to the Government to the most important case that has ever come before | acquire the money upon the most favorable terms this tribunal for adjudication, and will, whatever | practicable. The consummation of this object would be the result, be a landmark in our legal and poli- have so improved the material status of the Kingdom as to enhance its credit. The Legislature We do not deny the responsibility of Crown offi- evidently intended that a portion, perhaps a large people of small means should apply for their

There is no occasion to interpret what needs no interpretation. In the statute there is but one entence in the least requiring interpretation. The word "par" in this statute should be interpreted to mean the equivalent of the currency of the country. No one can command that a certain thing he has to sell shall bring any certain price, and this applies to this Government when selling Government bonds. It would be irrational to suppose that "par." meaning the equivalent of U. S. gold coin, could be demanded for these bonds. The Minister is enjoined only by the Legislature, and this to prevent bond speculation. He is, by the Legislature, expected to have for the bonds, only the amount they represent, in the currency of the country. To state the proposition more concisely, the word "par" in the statute does not mean par a exchange but par value in the common law, that is, dollar for dollar, pound for pound, without & command that the money received should be of a specific coinage, but that if should be the lawful currency of the realm.

There were several reasons actuating the Legislature in enacting the bond statute-to relieve a pressing need for money, and to permit the citizens of the country to make safe investments in the bonds of the Kingdom, thus enhancing the prosper ity of the country. The construction contended for by the petitioners, viz.: that the Legislature intended that only U. S. gold coin should be received

for the bonds, tends to render the act utterly void. The Attorney-General then contended that the words "U. S. gold coin" were left out of the clause providing for the issuing of bonds, intentionally. The term " English money" means all the money current in England, although not coined in England. All words must be taken in their ordinary intendment. Courts must not presume the meaning of the Legislature, but to collect it from the law as expressed in the statutes. If it be decided that the bonds can be issued for U. S. gold coin only, this court would be assuming Legislative

There is another rule, that effect cannot be given o words not expressed. The Court cannot supply meaning which might have been expressed by words not embodied in the Act, much less where the words occur in another part of the Act, showing that they were in the mind of the Legislators.

Counsel then read the original Bond Act in quesion from the manuscript, and from the different ounctuation there employed, contended that the intent was, that the payment of the bonds and interest in U. S. gold coin should operate as an inducement to the taking of the loan. He contended also that the prayer of the petitioners should not be granted. They had not made out their case. The decision of the case by the Court, which ever way it should be given, would be of advantage in de-

ciding the construction of an important statute. Mr. Hartwell in reply, said that the Attorney-General concedes that the Minister of Finance is subject to the law, but contends that he is not liable to the writ of Mandamus. The leading counsel for the Government took much stronger grounds, viz: that a Minister of the Crown is part and parcel of the Government and therefore not subject to judi-

He referred to a case against the Secretary of the State for India, 10 House of Lords, case 371, where the representatives of Lord Clyde proceeded against the official named to compel him to pay over pensions due to Lord Clyde's descendants. The Secretary of State was commanded to pay over, and though it was by a decree of chancery, there is no practical difference what the writ is called. Its effect in all these cases was mandatory. We do not seek to hold the Minister of Finance personally responsible, but that he be commanded to do what the Court deades to be his legal duty. It is not our prevince to invent styles of process by which the administrators of a sovereign can be committed. The quertion now involved is whether there has been a lapse from legal duty on the part of the Minster of Finance. We admit that Courts haveno judicial control over the discretion of an executive officer. In this statute must be found the authority for teeir issue and the manner of their litue, and the question for the Court to'decide, is whether or not this authority has been conformed to or has been. or is sought to be abused. The stante declares the bonds shall not be issued below per. Where is

The Attorney-General suggested that if such was the ground of the petitiones, the proper course would be to enjoin their thayment after

the discretion there allowed to the M nister?

Mr. Hartwell replied that the bonds were negotiable, and having passed into the hands of bona fide holders, their legality could not be impeached. He further read from leeling American authorities, holding that "par" means the value of the coin or currency in which the bonds are to be paid. He repudiated the intimation thrown out by the Attorney-General the political pique was involved in the present proceedings on the part of the petitioners.

The present suit is not whether the successor of the present Minister would be bound by the procoedings herein, but whether this Cart can com-Judgment reserved.

Christmas Praise Service.

Sunday evening, at Fort-st. Church, instead of

the regular service there will be given the following Christmas Praise Service : 1-Organ Voluntary Myrou Jones. 2-Doxology and Invocation. Choir. 4-Reading Psalm Rev. W. C. Mcvritt. 5-Anthem: "Nazareth," T. M. Stakey & chorus. 6-Reading New Testament Lesson Rov. A. O. Forbes. 7-Hymn : "Joy to the World," Choir and Congregation 8-Prayer Rev. W. C. Merritt. 9-Response..... 10-Offertoire: "The Lord is my Shetherd,"

. Fort-st. Choir. Double Quartette, Ladies' Voices 11-Hymn : "When Marshalled of the Nightly Plain,".... Choir and Congregation, 13-Duet and Chorus, | Mrs. Handfor | & Choir.

14-Hymp : "Hark ! the Herald Angels," Choir and Congregation 15-Benediction J. A. Cruzan The offering will be for the benefit if the Church Music Fund.

Monday is usually a busy day a the Custom House and the receipts often among to \$2,000 on the first day of the week in the bonded warehouse alone. Last Monday was a marked exception to the general rule, no doubt owing to the peremptory order from headquarters that United States gold

coin shall be demanded in the ratio provided by